1950.

File No. O. State Road Corporation/50
Legal Department
A **BRANCH**

Subject:—

O. State Road Corporation

opinions under the Bombay State

Road Transport Corporation

File No. O. State Road Corporation/50

Gen. 194 e.

306-A

C O N T E N T S.

Legal Department File No. O. State Road Corporation / 50.

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Office of the R.L.A.

State Transport Corporation Act, 1948.
Whether as full time member of the Corporation the Provincial Motor Transport Controller can continue as Provincial Transport Officer.

As the Provincial Motor Transport Controller is not a statutory officer, there is nothing illegal in appointing him or lending his service to the Corporation as its full time member. It is true that Provincial Motor Transport Controller at present performs certain statutory functions as Provincial Transport Officer and Provincial Rationing Authority. It would not be illegal to permit him to continue the performances of their function if the Provincial Government which has constituted the Corporation and appoints its members is of opinion that the performances of such functions will not interfere with his duties as a whole time member of the Corporation (cf.Section 60A of the City of Bombay Municipal Act.).

Id/- (P.M.L.)

Remembrancer of Legal Affairs.

U.R. to H.D.No.1211,dated the 25th January 1950.

R.D.P.
10/7/56

5.C.

The Road Transport Corporation Act, 1948.
Whether the Bombay State Road Transport Corporation can be treated as a Department of Government.

The Chairman of the Board of the Bombay State Road Transport Corporation in his D.O.letter at p.1 ante has raised the question that the Corporation be treated as a Government Department. The question for the consideration of the R.L.A. is whether it would be feasible to issue executive instructions directing that the Corporation should be regarded as a Government Department.

2. As pointed out by the R.L.A. in his opinion No. 4342, dated 29th March 1950, the Bombay State Road Transport Corporation is a body corporate and is neither an agent nor a servant of the Government. Being an independent body empowered with the wide powers conferred by the Road Transport Corporation Act, 1948, it cannot be said to be a Department of Government. The position stated at 'A' in the note at p. 3 ante that "the Corporation is in fact a Government Department for all purposes except that it has been transferred to the Corporation Board for administration on behalf of Government" is not therefore correct. The view expressed in the H.D. office note appears to be correct. By issuing executive instructions the legal status conferred by the ~~Xxxx~~ Road Transport Corporation Act, 1948, cannot be altered and the issue of any circular that the State Transport Corporation is in fact a Government Department transferred to the Corporation for administration on behalf of Government may create a wrong impression raising legal complications. However, there would be no objection to extending to the Corporation the facilities ordinarily given to Government Departments provided no breach of any provision of law is thereby committed or the statutory duties and discretions of the Corporation in any way affected.

Id/- (P.M.L.)
Remembrancer of Legal Affairs.

U.R. to H.D.No.5204, dated the 17th April 1950

R.D.I.
1017
S.C.

Office of the R. L: A.

Bombay State Road Transport Bill,1950.
Clause 8.
Whether compensation is payable in respect of temporary permits.

The view expressed in paragraph 3 of the Home Department office note at page 5 ante that compensation would be admissible in respect of the unexpired period even temporary permits is correct.

Id/- (P.M.L.)
Remembrnacer of Legal ~~xxxxifx~~ Affairs.

U.R. to H.D.No.6868,dated the 29th May 1950.

R.D.P.
10/7/56
S.C.

R.I.No.8486. dated 16-5-1950.

Submitted.

The question for the consideration of the R.L.A. is whether the x view expressed in the H.D. office note at p.5 ante that for the purpose of determining compensation under rule 4 of the Transport Services (Compensation) Rules, 1949, no distinction has been made therein between temprorary and other permits is correct.

Id/- (P.M.L.)

R. L. A.

R.D.P.
10/7/56
5.C.

Office of the R.L.A.

Bombay

The Bombay State Road Transport Act, 1950 sections 29 and 30(2): The Land Acquisition Act, 1894, section 41: Acquisition of land on behalf of State Transport Corporation.

It appears that the difficulty pointed out by the Chairman of the State Transport Board does not survive now. Section 29 of the Bombay State Road Transport Act, 1950, (Bom.25 of 1950) provides that the Corporation shall, for all purposes be deemed to be a local authority. Sub-section (2) of section 30 empowers the Corporation to take steps for the compulsory acquisition of any land or any interest there in required for the execution of its transport schemes in the manner provided by, and in accordance with the Land Acquisition Act, 1894, and the acquisition of any land or any interest therein for such purpose shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894. Reading these two sections together it would be seen that the Corporation can proceed to take steps to acquire any land required by itm as a local authority, and the provisions in section 41 about entering into an agreement withkxmk the State Government etc. will not be attracted in its case. Nor will it be necessary to make any deposits as in the case of companies. For "when a municipality or other m local body applies to take up land under the Land Acquisition Act, Government will assume that the necessity of the acquisition has been fully considered, the cost estimated, and provision made for payment of the award and costs" (see para 78 of the Land Acquisition Manual). The draft circular put up by Revenue Department at page 15 post of the correspondence will have to be amended accordingly. The statement in that draft circular that the Bombay

State Road Transport Corporation is an administration conducted on behalf of Government etc. is, as pointed out by the Home Department in para, 2 of their office note dated 26-6-50 at page 13 ante, not correct.

Id/- (P.M.L.)

Remembrancer of Legal Affairs.

U.R. to F.D.No.9168,dated the 3rd July 1950.

R.D.P.
10/7/56

S.C.

Office of the R.L.A.

Bombay State Road ~~Land~~ Transport Act, 1950.

Section 32.

Although the agreement of lease of 1949 is saved by section 32 of the Bombay State Road Transport Act, 1950 it is desirable to have a regular lease executed between the Bombay State Road Transport Corporation and the Bombay State Government. The execution of the agreemnnt may, however, be deferred till the appeal in the Petit Mills case is decided.

Id/- (P.M.L.)
Remembrancer of Legal Affairs.

U.R. to P.W.D.No.10938,datedithe 2nd August 1950.

R.D.P.
10/7/56

5.C.

Legal Department.

Bombay State Road Transport Act, 1950. Whether the Act can be brought into force in part.

The Motor Transport Controller in his letter at page 1 ante has proposed that sections 9, 10(1) and 29 of the Bombay State Road Transport Act, 1950, be brought into force in the first instance. The question for the consideration of the R.L.A. is whether the rpoposal of the Motor Transport Controller to bring only a few sections of the Act is legally in order.

2. Sub-section (3) of section 1 of the Bombay State Road Transport Act, 1950, provides that the Act shall come into force on such date as the ~~Ext~~ State Government may, by notification in the official Gazette, appoint in this behalf. A plain reading of this provision would show that the power given to the State Government is to appoint a date on which the whole Act shall come into force. Where power is given to bring into force all or some of the provisions of an enactment a clear provision to that effect is made. In this case the power is to bring into force the whole of the Act; it would not therefore appear legally feasible to bring into force only a few specified provisions of the Act. The x view expressed in para 2 of the Home Department office note at page 3 ante appears to be correct.

3. Incidentally it may be pointed out that in view of the recent decision of the High Court declaring the Corporation to be ultra vires the point raised in the file should await the final decision of Government on the subject as a whole.

Id/- (J.R.D.)
Additional Secretary to Government.

U.R. to H.D.No.14912,dated the 27th October 1950.

R.D.P.
10/7/56

5.C.